

**COPY**

SUM-100

**SUMMONS  
(CITACION JUDICIAL)****NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

CHRISTENSEN BROTHERS GENERAL ENGINEERING, INC., a California Corporation, and DOES 1-20, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SEVERO JOHN HERNANDEZ, on behalf of himself and all others similarly situated

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

APR 15 2021

BY   
ELISABETH MARTINEZ, DEPUTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Civil Division of the San Bernardino Distr.  
247 West Third St.  
San Bernardino, CA 92415-0210

CASE NUMBER: (Número del Caso):

CIV SB 2107947

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Verum Law Group, APC, Sam Kim, Esq., 841 Apollo St., Ste. 340, El Segundo, CA 90245, 424-320-2000

DATE:

(Fecha)

APR 15 2021

Clerk, by

(Secretario)

Elisabeth Martinez

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

[SEAL]

**COPY****NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Christensen Brothers General Engineering, Inc., a California Corporation  
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date)

Page 1 of 1

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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

**MAR 17 2021**

BY   
ELISABETH MARTINEZ, DEPUTY

Sam Kim [SBN 258467]  
Yoonis Han [SBN 256151]  
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Attorneys for Plaintiff SEVERO JOHN HERNANDEZ and all other similarly situated persons

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN BERNARDINO**

SEVERO JOHN HERNANDEZ, on behalf  
of himself and all others similarly situated

Case No. **CIV SB 2107947**

**CLASS ACTION COMPLAINT**

Plaintiff,

v.

CHRISTENSEN BROTHERS GENERAL  
ENGINEERING, INC., a California  
Corporation, and DOES 1-20, inclusive,

Defendants.

- 1) Failure to Pay All Wages in Violation of Labor Code §§ 200 et seq., 1194, and IWC Wage Order 16-2001;
- 2) Non-payment of Overtime Compensation in Violation of Labor Code §§ 510(a), 1194, and IWC Wage Order 16-2001;
- 3) Failure to Provide Proper Meal Breaks in Violation of Labor Code §§ 512, 226.7, and IWC Wage Order 16-2001;
- 4) Failure to Authorize and Permit Proper Rest Breaks in Violation of Labor Code § 226.7, and IWC Wage Order 16-2001;
- 5) Failure to Properly Maintain and Submit Itemized Wage Statements in Violation of Labor Code § 226 and IWC Wage Order 16-2001;
- 6) Violation of Labor Code §§ 201 and 202.7;
- 7) Violation of California Business & Professions Code § 17200 et seq;
- 8) Violation of Prevailing Wage Law, Labor Code §1771 et seq.;

**JURY TRIAL DEMANDED**

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///

1 Plaintiff SEVERO JOHN HERNANDEZ (“Plaintiff”) on behalf of himself and all others  
 2 similarly situated, allege against Defendant CHRISTENSEN BROTHERS GENERAL  
 3 ENGINEERING, INC. (“Defendant”), and DOES 1 through 20 (collectively, “Defendants”), the  
 4 following:

## 5 I.

### 6 INTRODUCTION

7 1. This is a class action, under Code of Civil Procedure § 382, seeking recovery for  
 8 Defendants’ violations of the California Labor Code sections 200 *et seq.*, 201, 202, 204, 223,  
 9 226, 226.7, 510, 512, 1174, 1771 *et seq.*, 1776, 1194, 1197, 1197.1, 2698 *et seq.*, California  
 10 Business and Professions Code sections 17200 *et seq.*, all applicable Industrial Welfare  
 11 Commission (IWC) Orders, including but not limited to Wage Order 16-2001, and other common  
 12 law and equitable principles.

13 2. Plaintiff’s action seeks monetary damages, including full restitution from  
 14 Defendants as a result of Defendants’ unlawful, fraudulent and/or unfair business practices.

15 3. The acts complained of herein occurred, occur and will occur, at least in part,  
 16 within the time period from four (4) years preceding the filing of the original Complaint in this  
 17 action, up to and through the time of trial for this matter.

18 4. This action is brought as a class action on behalf of all non-exempt employees  
 19 who are or were employed by Defendants in California during the relevant time period. Within  
 20 each work group, employees perform substantially similar job duties, and are paid substantially  
 21 similar compensation schemes.

## 22 II.

### 23 THE PARTIES

#### 24 REPRESENTATIVE PLAINTIFF

25 5. Plaintiff SEVERO JOHN HERNANDEZ was, at all relevant times mentioned  
 26 herein, an individual residing within the State of California and employed by Defendants.  
 27 Plaintiff was employed from approximately March 2020 to January 8, 2021 as a non-exempt  
 28 employee.



1 acting under the direction and control of each of the other Defendants, and said acts and failures  
 2 to act were within the course and scope of said agency, employment and/or direction and control,  
 3 and were committed willfully, oppressively, and fraudulently.

4 11. There exists, and at all times herein mentioned there existed, a unity of interest  
 5 and ownership between Defendant and Does 1-20, such that any individuality and separateness  
 6 between each Defendant has ceased, and Defendants are the alter ego of one another, and  
 7 Defendants are, and at all times herein mentioned was, a mere shell, instrumentality, and conduit  
 8 of one another, and carried on its business, exercising complete control and dominance over one  
 9 another to such an extent that any individuality or separateness of one Defendant to another does  
 10 not exist.

11 12. Defendants DOES 1 through 20, inclusive, are sued herein under fictitious names.  
 12 Their true names and capacities are unknown to Plaintiff. When their true names and capacities  
 13 are ascertained, Plaintiff will amend their complaint by inserting their true names and capacities  
 14 herein. Plaintiff is informed and believes, and based thereon allege that each of the fictitiously  
 15 named Defendants are responsible in some manner for the occurrences herein alleged and that  
 16 Plaintiff's damages as herein alleged were proximately caused by those Defendants. Each  
 17 reference in this complaint to "Defendant" or "Defendants" refers also to all Defendants sued  
 18 under fictitious names.

### 19 III.

### 20 JURISDICTION

21 13. The California Superior Court has jurisdiction in this matter due to Defendants'  
 22 aforementioned violations of California statutory law and/or related common law principles.

23 14. The California Superior Court also has jurisdiction in this matter because both the  
 24 individual and aggregate monetary damages and restitution sought herein exceed the minimal  
 25 jurisdictional limits of the Superior Court and will be established at trial, according to proof.

26 15. The California Superior Court also has jurisdiction in this matter because  
 27 Defendants' corporate officers direct, control, and coordinate Defendants' activities from  
 28 Defendants' corporate headquarters located in the State of California.

1 ///

2 **IV.**

3 **VENUE**

4 16. Venue in San Bernardino is proper in this matter as Defendants' liabilities and  
5 obligations arose in San Bernardino, including Defendants' statutory obligations to pay  
6 Plaintiff's prevailing wages for work performed at public works project sites within the County  
7 of San Bernardino. Likewise, Defendants' statutory obligations to pay wages for all hours  
8 worked, overtime wages, timely wages upon termination and/or resignation, provide proper meal  
9 and rest periods, maintain and submit accurate wage statements and other obligations as  
10 described herein arose from the work performed by Plaintiff and similarly situated employees in  
11 San Bernardino County.

12 **V.**

13 **COMMON FACTUAL ALLEGATIONS**

14 17. This case arises out of Defendants' failure to comply with California's wage and  
15 hour laws. At all relevant times identified herein, Defendants' compensation schemes did not  
16 fairly or lawfully compensate Plaintiff and those similarly situated employees for all hours  
17 worked.

18 18. Defendants own and operate a business that performs general contractor, highway  
19 and street construction business, and heavy construction.

20 19. The Plaintiff and those similarly situated employees are current and former non-  
21 exempt employees. The job duties of these non-exempt employees include construction related  
22 responsibilities, including working on public work projects.

23 20. Within the last four years of the filing of this Complaint, non-exempt employees  
24 were paid by an unlawful compensation plan that did not comply with the requisite prevailing  
25 wage rates, which govern public works projects. Pursuant to the pay plan instituted by  
26 Defendants, non-exempt employees were paid less than the requisite prevailing wage despite  
27 consisting of a public works project.

28 21. The unlawful compensation plan for non-exempt employees failed to compensate



1 them at the proper prevailing wage rate, specifically, paying non-exempt employees at a lower  
2 rate of pay than required under the prevailing wage law based on job duties and classification.

3 22. As a matter of policy and/or practice, Defendants' failed to pay non-exempt  
4 employees for each hour worked, and violates, among others, Labor Code §§ 204, 223, 510,  
5 1194, 1197, IWC Wage Order 16-2001, and the Unfair Competition Laws pursuant to Business  
6 and Professions Code §§ 17200 *et seq.* (UCL).

7 23. Defendants' pay plan also deprived the non-exempt employees of mandated  
8 overtime compensation that the non-exempt employees were due for working in excess of eight  
9 hours in one day and forty hours during the week. Within four years of the filing of this  
10 Complaint, Defendants failed to pay non-exempt employees all premium wages owed for  
11 overtime hours worked, either at one and one-half times the regular rate of pay for hours in excess  
12 of 8 per day or 40 per week, or twice the amount of the regular rate of pay for hours in excess of  
13 12 per day. As a matter of policy and/or practice, Defendants' failure to pay overtime  
14 compensation violates, among others, Labor Code §§ 510 and 1194, IWC Wage Order 16-2001,  
15 and the UCL.

16 24. Defendants adopted, implemented and enforced uniform meal period policies that  
17 are not lawful under California law. As an example, Defendants failed to provide a first meal  
18 period no later than the end of the fifth hour of work, and a second meal period no later than the  
19 end of the tenth hour of work.

20 25. Defendants also created incentives to forego meal periods, encouraged the  
21 skipping of meal periods, and coerced non-exempt employees not to take their legally mandated  
22 meal periods by adopting, implementing, and enforcing: (a) a uniform pay plan that essentially  
23 required non-exempt employees to work through meal periods in order to make sufficient wages;  
24 (b) uniform policies and practices of ridiculing, criticizing, disciplining and/or reprimanding non-  
25 exempt employees who attempted to take legally mandated meal periods; (c) uniform policies  
26 and practices whereby Defendants failed to schedule meal periods; (d) uniform policies and  
27 practices whereby Defendants pressured non-exempt employees to forego meal periods; (e)  
28 uniform policies and practices whereby non-exempt employees could not take meal periods

1 because Defendants constantly pressured non-exempt employees to “stay busy” and required  
2 non-exempt employees, at all times, to conduct work activities.

3 26. As a matter of policy and/or practice, Defendants failed to permit and provide  
4 non-exempt employees: (a) a first duty-free meal period of not less than thirty minutes before  
5 working more than five hours; or (b) a second duty-free meal period of not less than thirty minutes  
6 before working more than ten hours. Moreover, as a matter of policy and/or practice, Defendants  
7 failed to pay non-exempt employees one hour of pay at their regular rate of pay for each workday  
8 that a meal period was not provided.

9 27. Defendants’ failure to permit and provide non-exempt employees meal periods as  
10 described herein violates, among others, Labor Code §§ 226.7 and 512, IWC Wage Order 16-  
11 2001, and the UCL.

12 28. Defendants further adopted, implemented and enforced uniform rest period  
13 policies that are not lawful under California law. As a matter of policy and/or practice, therefore,  
14 Defendants failed to provide non-exempt employees with a duty-free rest period of 10 minutes  
15 for shifts from three and one-half to six hours of work, 20 minutes’ rest for shifts of more than  
16 six hours up to 10 hours, and 30 minutes’ rest for shifts of more than 10 hours up to 14 hours of  
17 work. Based on this unlawful policy and/or practice, Defendants failed to pay the non-exempt  
18 employees one hour of pay at their regular rate of pay for each workday that a proper rest period  
19 was not provided.

20 29. The failure to permit and provide rest periods violates, among others, Labor Code  
21 § 226.7, IWC Wage Order 16-2001, and the UCL.

22 30. As a matter of policy and/or practice, Defendants further failed to provide wage  
23 statements which accurately showed actual hours worked and wages. Defendants also failed to  
24 properly identify the pay plan and the formula for deriving the same and failed to keep an accurate  
25 record of meal breaks.

26 31. The failure to provide accurate itemized wage statements violates, among others,  
27 Labor Code § § 226 and 1174, IWC Wage Order 16-2001, and the UCL.

28 32. Defendants further willfully failed and refused to timely pay all compensation due



1 and owing to non-exempt employees whose employment terminated during the relevant time  
 2 period, as required by Labor Code §§ 201 and 202. As such, Defendants are liable for accrued  
 3 wages due, and waiting time penalties owed in accordance with Labor Code § 203.

4 33. As a matter of policy and/or practice, Defendants failed and refused to pay non-  
 5 exempt employees prevailing wages for their work on public works projects in violation of,  
 6 among others, Labor Code §§ 1771 *et seq.* Defendants, therefore, are liable for paying the non-  
 7 exempt employees their underpaid wages and liquidated damages, among others, pursuant to  
 8 Labor Code §§ 1194.2 and 1197.1.

9 34. Plaintiff, moreover, seeks for himself and all others similarly situated, restitution,  
 10 injunctive relief and penalties under the UCL based on violations of the California Labor Code  
 11 and IWC Wage Order 16-2001.

## 12 VI.

### 13 CLASS ACTION ALLEGATIONS

14 35. Plaintiff, brings this action on behalf of himself and all others similarly situated,  
 15 as a class action pursuant to California Code of Civil Procedure §382. The classes and sub-classes  
 16 that the Plaintiff seeks to represent are composed of and defined as follows:

#### 17 Class I (Class):

18 All non-exempt employees employed by Defendants within the last four (4) years from the  
 19 original filing date of the Complaint in this action up to and through the date of trial.

#### 20 Subclass I (Unpaid Wage Subclass):

21 All non-exempt employees employed by Defendants within the last four (4) years from the  
 22 original filing date of the Complaint in this action who did not receive wages for all hours worked,  
 23 in violation of Labor Code §§ 200 *et seq.*, 1194, 1197, and IWC Wage Order No. 16-2001.

#### 24 Subclass II (Overtime Subclass):

25 All non-exempt employees employed by Defendants within the last four (4) years from the  
 26 original filing date of the Complaint in this action, who were subjected to Defendants' uniform  
 27 pay plan, and who worked in excess of eight (8) hours per workday or in excess of forty (40)  
 28 hours per workweek without receiving proper premium (i.e. 1.5 times or 2 times the regular rate)  
 overtime compensation for the overtime hours worked in violation of California Labor Code  
 §510 and IWC Wage Order No. 16-2001.

**Subclass III (Late Meal Period Subclass):**

All non-exempt employees employed by Defendant within the last four (4) years from the original filing date of the Complaint in this action who were not provided a 30 minute duty free meal period within the first five (5) hours of the beginning of their shift.

**Subclass IV (Second Meal Period Subclass):**

All non-exempt employees employed by Defendant within the last four (4) years from the original filing date of the Complaint in this action who were not provided a second 30 minute duty-free meal period after ten (10) hours of work.

**Subclass V (General Meal Period Subclass):**

All non-exempt employees employed by Defendants within the last four (4) years from the original filing date of the Complaint in this action who worked shifts in excess of five hours and less than ten hours and who were not provided with a 30 minute duty free meal period. (The Late Meal Period Subclass, Second Meal Period Subclass, and General Meal Period Subclass are hereinafter referred to as the Meal Period Subclasses.)

**Subclass VI (Rest Period Subclass):**

All non-exempt employees employed by Defendants within the last four (4) years from the original filing date of the Complaint in this action who worked shifts in excess of three and one-half hours and who were not permitted to take 10 minute duty free rest periods for every 4 hours of work or major fraction thereof.

**Subclass VII (Itemized Wage Statement Subclass)**

All non-exempt employees employed by Defendants within the last four (4) years from the original filing date of the Complaint in this action who received an itemized wage statement that failed to comply with Labor Code § 226.

**Subclass VIII (Waiting Time Penalty Subclass):**

All non-exempt employees employed by Defendants within the last four (4) years from the filing of this Complaint who did not receive all wages due as a result of Defendants' enforcement of their uniform policies by willfully failing to pay for all wages due upon separation from their employment.

**Subclass IX (Unfair Competition Subclass)**

All non-exempt employees employed by Defendants within the last four (4) years from the filing of this Complaint against whom Defendants conducted unlawful, unfair and/or fraudulent business practices.

**Subclass X (Prevailing Wage Subclass)**

All non-exempt employees employed Defendants within the last four (4) years from the filing of this Complaint who worked in conjunction with public works contracts for Defendants, and who

1 were not paid the applicable prevailing wage rates.

2 36. The Class, Unpaid Wage Subclass, Overtime Subclass, Meal Period Subclasses,  
3 Rest Period Subclass, Itemized Wage Statement Subclass, Waiting Time Penalty Subclass,  
4 Unfair Competition Subclass, and Prevailing Wage Subclass are hereinafter referred to herein as  
5 the "Classes."

6 37. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or  
7 necessary to amend the definition of the Classes. In any event, Plaintiff will formally define and  
8 designate a class definition at such time when Plaintiff seeks to certify the Classes alleged herein.

9 38. *Numerosity* (Code of Civil Procedure (CCP) § 382):

- 10 a. The potential quantity of members of the Classes as defined is so numerous that  
11 joinder of all members is unfeasible or impractical;  
12 b. The disposition of the claims of the members of the Classes through this class  
13 action will benefit both the parties and this Court;  
14 c. The quantity and identity of such membership of the Classes is readily  
15 ascertainable via inspection of Defendants' records.

16 39. *Superiority* (CCP § 382): The nature of this action and the nature of the laws  
17 available to Plaintiff make the use of the class action format particularly efficient and the  
18 appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein, as follows:

- 19 a. California has a public policy which encourages the use of the class action device;  
20 b. By establishing a technique whereby the claims of many individuals can be  
21 resolved at the same time, the class suit both eliminates the possibility of  
22 repetitious litigation and provides small claimants with a method of obtaining  
23 redress for claims which would otherwise be too small to warrant individual  
24 litigation;  
25 c. This case involves relatively large corporate Defendants and numerous individual  
26 class members with many relatively small claims and common issues of law and  
27 fact;  
28 d. If each individual member of the Classes was required to file an individual

1 lawsuit, the corporate Defendants would necessarily gain an unconscionable  
2 advantage because Defendants would be able to exploit and overwhelm the  
3 limited resources of each individual member of the Classes with Defendants'  
4 vastly superior financial and legal resources;

5 e. Requiring each individual member of the Classes to pursue an individual remedy  
6 would also discourage the assertion of lawful claims by the members of the  
7 Classes who would be disinclined to pursue an action against Defendants because  
8 of an appreciable and justifiable fear of retaliation and permanent damage to their  
9 lives, careers and well-being;

10 f. Proof of a common business practice or factual pattern, of which the members of  
11 the Classes experienced, is representative of the Classes herein and will establish  
12 the right of each of the members of the Classes to recover on the causes of action  
13 alleged herein;

14 g. Absent class treatment, the prosecution of separate actions by the individual  
15 members of the Classes, even if possible, would likely create:

16 i. a substantial risk of each individual plaintiff presenting in separate,  
17 duplicative proceedings the same or essentially similar arguments and  
18 evidence, including expert testimony;

19 ii. a multiplicity of trials conducted at enormous expense to both the judicial  
20 system and the litigants;

21 iii. inconsistent or varying verdicts or adjudications with respect to the  
22 individual members of the Classes against Defendants;

23 iv. potentially incompatible standards of conduct for Defendants; and

24 v. potentially incompatible legal determinations with respect to individual  
25 members of the Classes which would, as a practical matter, be dispositive  
26 of the interest of the other members of the Classes who are not parties to  
27 the adjudications or which would substantially impair or impede the  
28 ability of the members of the Classes to protect their interests.

- h. The claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attendant thereto;
- i. Courts seeking to preserve the efficiency and other benefits of class actions routinely fashion methods to manage any individual questions; and
- j. The Supreme Court of California urges trial courts, which have an obligation to consider the use of innovative procedural tools to certify a manageable class, to be procedurally innovative in managing class actions.

40. *Well-defined Community of Interest:* Plaintiff also meets the established standards for class certification as follows:

- a. *Typicality:* The claims of Plaintiff are typical of all members of the Classes he seeks to represent because all members of the Classes sustained injuries and damages arising out of Defendants' common course of conduct in violation of law and the injuries and damages of all members of the Classes were caused by Defendants' wrongful conduct in violation of the law, as alleged herein.
- b. *Adequacy:* Plaintiff:
  - i. is an adequate representative of the Classes he seeks to represent;
  - ii. will fairly protect the interests of the members of the Classes;
  - iii. has no interests antagonistic to the members of the Classes; and
  - iv. will vigorously pursue this suit via attorneys who are competent, skilled and experienced in litigating matters of this type.
- c. *Predominant Common Questions of Law or Fact:* There are common questions of law and fact as to the Classes which predominate over questions affecting only individual members. Defendants, for instance, have adopted, implemented and enforced during the relevant time period an unlawful pay plan that fails to pay the non-exempt employees at the required prevailing wage rate based on job duties and classification. Defendants also have uniform policies and practices that fail to provide a 30 minute duty-free meal period for the first five hours of work, and fail

1 to provide for rest periods for every four hours of work or major fraction thereof.  
 2 Defendants have further adopted, implemented, and enforced other uniform  
 3 policies and procedures that do not fairly compensate non-exempt for their wages,  
 4 that should be decided on a class-wide basis, including, without limitation:

- 5 i. Whether Defendants' compensation plan is unlawful;
- 6 ii. Whether Defendants required or knowingly permitted non-exempt  
 7 employees to forego meal breaks in violation of California Labor Code §§  
 8 226.7 and 512, and IWC Wage Order 16-2001 as alleged herein;
- 9 iii. Whether Defendants' provided non-exempt employees a duty-free meal  
 10 period within the first five (5) hours of work and/or a second duty-free  
 11 meal period after ten (10) hours of work;
- 12 iv. Whether Defendants violated IWC Wage Order 16-2001 by failing to  
 13 provide non-exempt employees a duty-free rest period for every four hours  
 14 of work or major fraction thereof;
- 15 v. Whether Defendants violated California Labor Code § 510 and IWC Wage  
 16 Order 16-2001 by failing to pay overtime compensation to all non-exempt  
 17 employees for hours in excess of eight (8) hours per workday or in excess  
 18 of forty (40) hours per workweek;
- 19 vi. Whether Defendants violated California Labor Code § 226(a) by failing  
 20 to furnish to non-exempt employees proper itemized wage statements as  
 21 alleged herein;
- 22 vii. Whether Defendants violated California Labor Code §§ 1771 *et. seq.* by  
 23 failing to pay non-exempt employees prevailing wages;
- 24 viii. Whether Defendants engaged in unfair business practices;
- 25 ix. Whether Defendants and each of them was/were participants in the alleged  
 26 unlawful and/or tortious conduct;
- 27 x. Whether Defendants' conduct was willful or reckless;
- 28 xi. Whether Plaintiff and the members of the Classes are entitled to seek



1 recovery of penalties for the Labor Code and IWC Wage Order violations  
2 alleged herein;

3 xii. Whether Defendants violated California Labor Code §§ 201 and 202 by  
4 failing to timely pay non-exempt employees all wages due at the  
5 conclusion of their employment relationship as alleged herein;

6 xiii. Whether Defendants violated California Labor Code §§ 1194 and 1197 by  
7 failing to pay wages to all non-exempt employees for each hour worked  
8 as alleged herein;

9 xiv. Whether the members of the Classes are entitled to compensatory  
10 damages, and if so, the means of measuring such damages;

11 xv. Whether the members of the Classes are entitled to injunctive relief;

12 xvi. Whether the members of the Classes are entitled to restitution; and

13 xvii. Whether Defendants are liable for attorneys' fees and costs.

14 41. The members of the Classes are commonly entitled to a specific and designated  
15 fund with respect to monies illegally and unfairly retained by Defendants, and are entitled in  
16 common to restitution and disgorgement of those funds being improperly withheld by  
17 Defendants. This action is brought for the benefit of all members of the Classes. Whether each  
18 members of the Classes might be required to ultimately justify an individual claim does not  
19 preclude maintenance of a class action.

#### 20 FIRST CAUSE OF ACTION

21 **(Failure to Pay Wages in Violation of California Labor Code §§ 200 *et seq.*, 1194 and IWC**  
22 **Wage Order No. 16-2001) (Plaintiff against All Defendants)**

23 42. Plaintiff, on behalf of himself and all class members, hereby incorporate the  
24 preceding paragraphs as though fully set forth herein.

25 43. California Labor Code Sections 200 *et seq.*, including 204a and 204b, establishes  
26 the fundamental right of all employees in the State of California to be paid wages in a timely  
27 fashion.

28 44. Pursuant to Labor Code Sections 218 and 1194, Plaintiff and all members of the

1 Classes may bring a civil action for unpaid wages directly against Defendants without first filing  
 2 a claim with the Division of Labor Standards Enforcement and may recover such wages, together  
 3 with interest thereon, penalties, attorneys' fees and costs.

4 45. At all relevant times, Plaintiff and all members of the Unpaid Wage Subclass  
 5 identified herein operated on, at, or in conjunction with construction sites exclusively within the  
 6 State of California, and Defendants required Plaintiff and the Unpaid Wage Subclass members  
 7 to perform work without compensation in violation of the IWC Wage Order No. 16-2001 and the  
 8 California Labor Code. Defendants have adopted and implemented unlawful compensation  
 9 policies, practices and procedures that, among other things, paid Plaintiff and members of the  
 10 Unpaid Wage Subclass for all of their time worked. For instance, Plaintiff and the Unpaid Wage  
 11 Subclass members routinely were required to perform pre-shift and post-shift duties without  
 12 compensation. Defendants' failure to pay for this time worked is improper as a matter of law.  
 13 Moreover, Defendants required, suffered and/or permitted Plaintiff and the Unpaid Wage  
 14 Subclass members to perform uncompensated "off the clock" work, so that their work was not  
 15 accounted for accurately or completely.

16 46. Defendants knowingly and intentionally failed to pay Plaintiff and the Unpaid  
 17 Wage Subclass members for these wages due. As a result, Plaintiff and the Unpaid Wage  
 18 Subclass members have suffered compensatory damages and are owed wages for the work they  
 19 performed without compensation.

20 47. Pursuant to Labor Code Section 218.6, Labor Code Section 1194(a), and Civil  
 21 Code Section 3287, Plaintiff and the Unpaid Wage Subclass members seek recovery of pre-  
 22 judgment interest on all amounts recovered herein.

## 23 **SECOND CAUSE OF ACTION**

### 24 **(Non-Payment of Overtime Compensation in Violation of California Labor Code §§** 25 **510(a), 1194, and IWC Wage Order No. 16-2001) (Plaintiff against All Defendants)**

26 48. Plaintiff, on behalf of himself and all class members, hereby incorporate the  
 27 preceding paragraphs as though fully set forth herein.

28 49. Plaintiff herein regularly and routinely worked more than 8 hours per day and/or

1 40 hours per week, but did not receive overtime wages for these hours. Plaintiff is informed and  
2 believes, and based thereon alleges, that all members of the Overtime Subclasses also worked  
3 more than 8 hours per day and/or 40 hours per week, but did not receive overtime wages for these  
4 hours, based upon Defendants' uniform policy not to pay for overtime even though such overtime  
5 hours were worked. Amounts for overtime hours were earned by Plaintiff and the members of  
6 the Overtime Subclasses throughout their employment with Defendants, and were due and  
7 payable during employment and upon their discharge from Defendants.

8 50. California Labor Code 510(a) and IWC Wage Order No. 16-2001 regulating  
9 payment of wages in the state of California, provide that eight (8) hours of labor constitutes a  
10 day's work and any work in excess of eight (8) hours in one (1) workday and any work in excess  
11 of forty (40) hours in any one workweek shall be compensated at the rate of no less than one and  
12 one-half times the regular rate of pay for each employee and any work in excess of twelve (12)  
13 hours in any one workday shall be compensated at the rate of no less than twice the regular rate  
14 of pay for each employee.

15 51. California Labor Code Section 558 and IWC Wage Order No. 16-2001, state, in  
16 pertinent part, that any employer or other person acting on behalf of an employer who violates,  
17 or causes to be violated, a section of any provision regulating hours and days of work in any  
18 order of the IWC shall be subject to a civil penalty as follows: (1) For any initial violation, fifty  
19 dollars (\$50) for each underpaid employee for each pay period for which the employee was  
20 underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each  
21 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay  
22 period for which the employee was underpaid in addition to an amount sufficient to recover  
23 underpaid wages. Pursuant to this code section and/or wage order, Plaintiff and the members of  
24 the Overtime Subclasses are entitled to civil penalties for each pay period in which Defendants  
25 underpaid their wages as set forth herein.

26 52. California Labor Code § 1194 states that any employee receiving less than the  
27 legal overtime compensation applicable to the employee is entitled to recover the unpaid balance  
28 of the full amount of this overtime compensation, including interest thereon, reasonable

1 attorney's fees, and costs of suit.

2 53. Plaintiff and the members of the Overtime Subclasses request that the Court award  
3 them interest on all unpaid wages at the legal rate specified by California Civil Code § 3289(b),  
4 accruing from the date the wages were due and payable pursuant to Labor Code § 218.6. Plaintiff  
5 and members of the Overtime Subclasses further request that this Court award reasonable  
6 attorneys' fees and costs incurred in this action pursuant to Labor Code §§ 1194(a), 2699, and  
7 pursuant to the common fund doctrine.

### 8 **THIRD CAUSE OF ACTION**

#### 9 **(Failure to Provide Proper Meal Periods in Violation of California Labor Code §§ 512,** 10 **226.7, and IWC Wage Order 16-2001) (Plaintiff against All Defendants)**

11 54. Plaintiff, on behalf of himself and all class members, hereby incorporate the  
12 preceding paragraphs as though fully set forth herein.

13 55. California Labor Code § 512 and IWC Wage Order 16-2001 state that an  
14 employer may not employ an employee for a work period of more than five (5) hours per day  
15 without providing the employee a meal period of not less than 30 minutes, and an employer may  
16 not employ an employee for a work period of more than 10 hours per day without providing the  
17 employee with a second meal period of not less than 30 minutes. Wage Order 16-2001 states that  
18 unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall  
19 be considered an "on duty" meal period and counted as time worked. California Labor Code §  
20 226.7, subd. (a) further states that no employer shall require any employee to work during any  
21 meal or rest period mandated by an applicable order of the IWC.

22 56. Pursuant to Labor Code section 512 and Wage Order 16, an employer is required  
23 to provide a first meal period no later than the end of an employee's fifth hour of work, and a  
24 second meal period no later than the end of an employee's 10th hour of work. Moreover, an  
25 employer is prohibited from exerting coercion against the taking of, creating incentives to forego,  
26 or otherwise encouraging the skipping of legally protected breaks.

27 57. Plaintiff and members of the Meal Period Subclasses were not provided with or  
28 given the opportunity to take the requisite meal periods before the end of the first 5 hours of

1 work, nor were they provided with or given the opportunity to take a proper second meal period  
 2 during the days when they worked more than 10 hours in a day. Defendants also created  
 3 incentives to forego meal breaks based on an unlawful piece-rate compensation policy and  
 4 through other means. As a result, Plaintiff and members of the Meal Period Subclasses also were  
 5 required to work and/or were not relieved of all duties during any meal period taken, and thus  
 6 were considered "on duty;" however, Defendants failed to count as time worked any "on duty"  
 7 meal period taken by Plaintiff and the members of the Meal Period Subclasses.

8 58. Pursuant to California Labor Code § 226.7(b) and IWC Wage Order 16-2001, if  
 9 an employer fails to provide an employee a meal period in accordance with the applicable  
 10 provisions of IWC Wage Order 16-2001, the employer shall pay the employee one (1) hour of  
 11 pay at the employee's regular rate of compensation for each workday that the meal period is not  
 12 provided. As such, Plaintiff and members of the Meal Period Subclasses are entitled to an  
 13 additional one hour's pay for each day in which Plaintiff and members of the Meal Period  
 14 Subclasses were not provided a proper meal break under the above-described authorities.

15 59. California Labor Code § 558 states that any employer or other person acting on  
 16 behalf of an employer who violates, or causes to be violated, a section of any provision regulating  
 17 hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1)  
 18 For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for  
 19 which the employee was underpaid in addition to an amount sufficient to recover underpaid  
 20 wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid  
 21 employee for each pay period for which the employee was underpaid in addition to an amount  
 22 sufficient to recover underpaid wages. Pursuant to this code section, Plaintiff, as well as members  
 23 of the Meal Period Subclasses are entitled to civil penalties for each pay period in which  
 24 Defendants underpaid their wages as set forth herein.

25 60. Plaintiff and the members of the Meal Period Subclasses request that the Court  
 26 award interest on all unpaid wages at the legal rate specified by California Civil Code § 3289(b),  
 27 accruing from the date the wages were due and payable pursuant to Labor Code § 218.6.

#### 28 **FOURTH CAUSE OF ACTION**

**(Failure to Provide Proper Rest Periods in Violation of California Labor Code § 226.7  
and IWC Wage Order 16-2001) (Plaintiff against All Defendants)**

61. Plaintiff, on behalf of himself and all class members, hereby incorporate the preceding paragraphs as though fully set forth herein.

62. IWC Wage Order 16-2001 states that every employer shall authorize and permit all employees to take rest periods. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four hours of work, or major fraction thereof. An employer must provide employees with 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.

63. Plaintiff and the Rest Period Subclass members were regularly not provided with the opportunity to take a duty-free, ten minute rest period for every four hours of work, or a major fraction thereof.

64. Pursuant to California Labor Code § 226.7(b) and IWC Wage Order 16-2001 if an employer fails to provide an employee a rest period in accordance with the applicable provisions of IWC Wage Order 16-2001, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

65. As such, Plaintiff and the Rest Period Subclass members are entitled to an additional one hour's pay for each day in which they were not provided a proper rest period under the above-described authorities.

66. California Labor Code § 558 states that any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of any provision regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount



1 sufficient to recover underpaid wages. Pursuant to this code section, Plaintiff, as well as members  
 2 of the Rest Period Subclass are entitled to civil penalties for each pay period in which Defendants  
 3 underpaid their wages as set forth herein.

4 67. Plaintiff and the members of the Rest Period Subclass request that the Court award  
 5 interest on all unpaid wages at the legal rate specified by California Civil Code § 3289(b),  
 6 accruing from the date the wages were due and payable pursuant to Labor Code § 218.6.

#### 7 **FIFTH CAUSE OF ACTION**

8 **(Failure to Properly Maintain and Submit Itemized Wage Statements In Violation of**  
 9 **California Labor Code §§ 226, 1174, and IWC Wage Order No. 16-2001) (Plaintiff against**  
 10 **All Defendants)**

11 68. Plaintiff, on behalf of himself and all class members, hereby incorporate the  
 12 preceding paragraphs as though fully set forth herein.

13 69. California Labor Code §§ 226, 1174, and/or IWC Wage Order 16-2001 require  
 14 employers to maintain and provide its employees accurate time and employment records, as well  
 15 as itemized wage statements showing, among other things, gross wages earned, the total hours  
 16 worked by the employee, all deductions, net wages earned, all applicable hourly rates in effect  
 17 during the pay period and the corresponding number of hours worked at each hourly rate by the  
 18 employee. Furthermore, Wage Order No. 16-2001 and Labor Code § 226 requires every  
 19 employer to keep accurate information with respect to each employee, including: (1) the  
 20 employee's full name, home address, occupation, social security number, employee's date of  
 21 birth, and time records showing when the employee begins and ends each work period; (2) an  
 22 employee's meal periods; (3) total wages paid each payroll period; and (4) total hours worked  
 23 during the payroll period and applicable rates of pay; and (5) when an employee is paid by the  
 24 piece-rate, the piece-rate formula and the number of pieces completed.

25 70. Defendants failed to properly maintain itemized wage statements in that, among  
 26 other things, the wage statements provided do not set forth an accurate showing of actual hours  
 27 worked, an accurate showing of wages, the meal periods taken, the piece-rate formula, number  
 28 of pieces completed, and other related information required by California law. Moreover,

Defendants failed to timely submit upon request adequate itemized wage statements of Plaintiff as required by the above-referenced laws and regulations. Plaintiff is informed and believes that said failure was knowing and intentional by Defendants as Defendants sought to deprive Plaintiff and the Itemized Wage Statement Subclass members of their legitimate right to unpaid wages and/or commissions, and otherwise deprive them of overtime compensation. As a result of Defendants' intentional and knowing failure to maintain adequate itemized statements, Plaintiff and the members of the Itemized Wage Statement Subclass could not ascertain the actual amount of compensation they earned and/or were entitled to, and thereby suffered cognizable injury in the form of the accrual of unpaid wages, commissions, overtime, and interest.

71. Pursuant to California Labor Code § 226(e), an employee who suffers injury as a result of an employer's knowing and intentional failure to comply with subdivision (a), is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

72. Pursuant to California Labor Code § 226(h), an employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees. As such, Plaintiff and the members of the Itemized Wage Statement Subclass are entitled to statutory penalties recoverable from Defendants as described herein, as well as reasonable costs and attorneys' fees.

## **SIXTH CAUSE OF ACTION**

### **(Violation of California Labor Code §§ 201 and 202) (Plaintiff against All Defendants)**

73. Plaintiff, on behalf of himself and all members of the class, hereby incorporate the preceding paragraphs as though fully set forth herein.

74. Labor Code § 201 states that an employer is required to provide an employee who is terminated all unpaid wages immediately upon termination.

75. Plaintiff is informed and believe and thereon allege that Defendants failed to pay Plaintiff, the Waiting Time Penalty Subclass members, and other current and former employees

1 all wages due and owing immediately upon termination, thereby violating Labor Code § 201.

2 76. Labor Code §202 states, in pertinent part, that an employer is required to provide  
3 an employee who quits his or her employment all wages due and owing not later than 72 hours  
4 thereafter.

5 77. Plaintiff is informed and believe and thereon allege that Defendants failed to pay  
6 Plaintiff, the Waiting Time Penalty Subclass members, and other current and former employees  
7 all wages due and owing upon voluntary resignation, thereby violating Labor Code § 202.

8 78. Labor Code §203 states that if an employer willfully fails to pay an employee  
9 wages according to Labor Code §§ 201 and 202, these wages shall continue as a penalty for up  
10 to a maximum of 30 days.

11 79. Defendants willfully withheld paying Plaintiff, the Waiting Time Penalty  
12 Subclass members, and other employees wages thereby violating Labor Code § 203 and requiring  
13 Defendants to pay Plaintiff, the Waiting Time Penalty Subclass members, and other aggrieved  
14 employees a 30 day wage penalty in addition to all unpaid wages as described herein.

#### 15 SEVENTH CAUSE OF ACTION

#### 16 (Violation of California Business & Professions Code § 17200) (Plaintiff against All 17 Defendants)

18 80. Plaintiff, on behalf of himself and all class members, hereby incorporate the  
19 preceding paragraphs as though fully set forth herein.

20 81. California Business and Professions Code § 17200 *et seq.* prohibits unfair  
21 competition in the form of any unlawful, deceptive or fraudulent business practice. The acts and  
22 practices described in this complaint constitute unlawful, unfair and fraudulent business  
23 practices, and unfair competition within the meaning of Business and Professions Code § 17200  
24 *et seq.*

25 82. Beginning at an exact date unknown to Plaintiff, Defendants committed unlawful  
26 acts as described above, including: failing to pay overtime compensation to its employees, failing  
27 to provide proper meal and rest breaks, failing to timely pay Plaintiff and members of the Unfair  
28 Competition Subclass all wages due and owing, including the prevailing wage rate, failing to

1 properly maintain and submit itemized wage statements, and adopting, implementing and  
2 enforcing uniform unlawful compensation and meal and rest break policies and procedures.

3 83. The violations of these laws serve as unlawful business practices for purposes of  
4 Business and Professions Code § 17200 and remedies are provided therein under Business and  
5 Professions Code § 17203.

6 84. As a proximate result of the aforementioned acts, the Defendants received and  
7 continue to hold ill-gotten gains belonging to Plaintiff and all members of the Unfair Competition  
8 Subclass in that Defendants have profited from their unlawful practices.

9 85. Business and Professions Code § 17203 provides that the Court may restore to  
10 any person in interest any money or property that may have been acquired by means of such  
11 unfair competition and order restitutionary damages to Defendants by operation of the practices  
12 alleged therein. Plaintiff and all members of the Unfair Competition Subclass are entitled to  
13 restitution pursuant to Business and Professions Code §§ 17203 and 17208 for all wages and civil  
14 penalties unlawfully withheld from them during the four (4) years prior to the original filing date  
15 of this complaint.

16 86. Plaintiff and all members of the Unfair Competition Subclass seek and are entitled  
17 to unpaid wages, unpaid overtime, injunctive relief, statutory and civil penalties, and any other  
18 remedy owing to Plaintiff and members of the Unfair Competition Subclass.

19 87. Injunctive relief is necessary and proper to prevent Defendants from repeating  
20 their wrongful practices as alleged above.

21 88. In order to prevent Defendants from profiting and benefitting from their wrongful  
22 and illegal acts, an order requiring Defendants to pay restitutionary damages to Plaintiff and all  
23 members of the Unfair Competition Subclass is also appropriate and necessary.

24 89. Plaintiff herein have taken it upon himself to enforce these laws and lawful claims.  
25 There is a financial burden incurred in pursuing this action and it would be against the interests  
26 of justice to penalize Plaintiff by forcing him to pay attorneys' fees in this action. Therefore,  
27 attorneys fees are appropriate pursuant to Code of Civil Procedure § 1021.5, as well as under the  
28 common fund doctrine.

1 **EIGHTH CAUSE OF ACTION**

2 **(Violation of California's Prevailing Wage Laws, Labor Code §§ 1771 *et. seq.* and 223)**

3 **(Plaintiff against All Defendants)**

4 90. Plaintiff, on behalf of himself and all class members, hereby incorporate the  
5 preceding paragraphs as though fully set forth herein.

6 91. California Labor Code § 1771 provides that all workers employed on public works  
7 projects of at least one thousand dollars (\$1,000) shall be paid the "general prevailing rate of per  
8 diem wages for work of a similar character in the locality in which the public work is performed,  
9 and not less than the general prevailing rate of per diem wages for holiday and overtime work as  
10 provided in this chapter." California Labor Code § 1774 further provides that "[t]he contractor  
11 to whom the [public works] contract is awarded, and any subcontractor under him, shall pay not  
12 less than the specified prevailing rates of wages to all workmen employed in the execution of the  
13 contract." California Labor Code § 223 further provides that where any statute or contract  
14 requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay  
15 a lower wage while purporting to pay the wage designated by statute or by contract.

16 92. Plaintiff is informed and believes, and based thereon allege, that Defendants were  
17 contractors and/or subcontractors on public works projects of greater than \$1,000, and employed  
18 Plaintiff and all members of the Prevailing Wage Subclass in connection with such public works  
19 contracts, without paying Plaintiff and the Prevailing Wage Subclass members the applicable  
20 prevailing wage rates. Plaintiff and Prevailing Wage Subclass members were not paid prevailing  
21 wage rates as obligated by statute and/or contract, and the failure to pay such prevailing wages  
22 to Plaintiff and the Prevailing Wage Subclass members was done secretly by Defendants in  
23 violation of Labor Code § 223.

24 93. The Prevailing Wage Law (Labor Code §§ 1770 *et seq.*) is a minimum wage law  
25 under California law. As such, Plaintiff and members of the Prevailing Wage Subclass are  
26 entitled, pursuant to Labor Code § 1194.2, to recover an amount equal to the wages unlawfully  
27 unpaid and interest thereon.

28 94. Labor Code § 1197.1 states that any employer or other person acting either

individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty as follows: (1) for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid; (2) for each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

95. California Labor Code Section 558 and IWC Wage Order No. 16-2001, state, in pertinent part, that any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

96. As a result of Defendants' violations of the prevailing wage laws, Plaintiff, the members of the Prevailing Wage Subclass and other current and former employees have suffered damages for the improper payment and/or lack of payment of the prevailing wage on public works projects, and they shall be entitled to any and all applicable unpaid wages and penalties under the California Labor Code and applicable wage order as provided herein.

97. Pursuant to Labor Code Sections 218.6, 1194(a) and/or 2699, Plaintiff and the Prevailing Wage Subclass members request that this Court award interest, as well as reasonable attorneys' fees and costs incurred in this action.

#### **PRAYER FOR RELIEF**

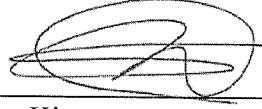
1. That the Court issue an Order certifying the Classes herein, appointing all named Plaintiff as the representative of all others similarly situated, and appointing the Verum Law Group, APC, representing all named Plaintiff as counsel for members of the Classes;



2. For an Order requiring Defendants to identify each of the members of the Classes by name, home address, and home telephone number;
3. For the creation of an administrative process wherein each injured member of the Classes may submit a claim in order to receive his or her money;
4. For general and compensatory damages according to proof at trial;
5. For preliminary, permanent, and mandatory injunctive relief prohibiting the Defendants and their agents from committing any future violations of the law as herein alleged;
6. For an award of restitution, according to proof, under the Business and Professions Code § 17200 *et seq.* and applicable California Labor Code provisions;
7. Costs of suit, including attorneys' fees pursuant to California Labor Code § 1194, 218.5, 226, 2699, the common fund doctrine, and all other applicable laws providing for recovery of attorney's fees and costs in this action;
8. For interest at the legal rate of 10% per annum;
9. Liquidated damages pursuant to Labor Code § 1194.2;
10. Such further relief as the Court deems just and proper.

March 16, 2021

**VERUM LAW GROUP, APC**



\_\_\_\_\_  
Sam Kim  
Yoonis Han  
Attorneys for Plaintiff SEVERO JOHN  
HERNANDEZ and all other similarly situated  
persons